

REMARKS

Applicants and Applicants' attorney express appreciation to the Examiner for the courtesies extended during the recent interview held on December 14, 2004. The amendments to the claims and remarks presented by this paper are consistent with the amendments proposed and arguments presented during the Interview. Claims 1-18, 20-24, 26, 27, 29-32, and 34 are pending. As indicated above, claims 19, 25, 28, 33, and 35 have been canceled without prejudice and claims 21-22, 24, 26, 27, 29, and 34 have been amended by this paper. Applicants note for the record that the subject matter of the canceled claims is included in other pending claims and therefore canceling claims 19, 25, 28, 33, and 35 does not evince an intent to surrender any subject matter.

The Office Action rejected claims 1-9 and 19-35 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,987,100 to Fortman et al. ("*Fortman*") in view of U.S. Patent No. 6,704,786 to Gupta et al. ("*Gupta*") and U.S. Patent No. 6,577,618 to Diachina et al. ("*Diachina*"); and rejected claims 10-18 under 35 U.S.C. § 103(a) as being unpatentable over *Fortman* in view *Gupta*, *Diachina*, and U.S. Patent No. 6,070,184 to Blount et al. ("*Blount*").¹

In order to establish a prima facie case of obviousness, "the prior art reference (or references when combined) must teach or suggest all the claim limitations." MPEP § 2143 (emphasis added). Obviousness may not be based on impermissible hindsight, using "knowledge gleaned only from applicant's disclosure." MPEP § 2145(X)(A). During examination, the pending claims are given their broadest reasonable interpretation, i.e., they are interpreted as broadly as their terms reasonably allow, consistent with the specification. MPEP §§ 2111 & 2111.01.

Independent Claims 1, 7, 8, 9, 10, 16, 17, and 19

Independent claims 1, 7, 8, and 9 generally correspond to the embodiments of the invention illustrated in Figures 2 & 3. Independent claims 10, 16, 17, and 19 generally correspond to the embodiments of the invention illustrated in Figures 4 & 5. In rejecting each of these independent claims, the Office Action asserts that *Fortman* teaches sending data to a client

¹Although the prior art status of all cited art is not being challenged at this time, Applicants reserve the right to do so in the future. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status or asserted teachings of the cited art.

system using a connection-oriented protocol, but acknowledges that *Fortman* fails to teach sending notification data to a client system using a connectionless protocol. *See, e.g.,* Office Action, p. 4 (rejection of claim 1). To make up for this deficiency, the Office Action cites *Diachina* and *Gupta* as disclosing connectionless and connection-oriented protocols and asserts that it would have been obvious at the time of the invention for one of ordinary skill in the art to use a connectionless protocol when sending a notification to a client. Applicants respectfully disagree.

The portions of *Diachina* cited in the Office Action relate to contrasting circuit-switched technology with packet-switched technology in a telecommunication context. Col. 1, ll. 12-21; col. 1, l. 56 – col. 2, l. 20. In particular, *Diachina* notes that circuit-switched technologies are connection-oriented and establish a physical call connection that is maintained for the duration of a data exchange. Packet-switched technologies, which may be either connection-oriented (e.g., X.25) or connectionless (e.g., IP), do not require set-up and tear-down of a physical connection and therefore may be better suited to certain types of transactions. Although *Diachina* may provide guidance with respect to choosing between circuit-switched technologies and packet-switched technologies, the same cannot be said for selecting between connection-oriented and connectionless technologies, since the cited portion of *Diachina* indicates that packet-switched technologies may be either connection-oriented or connectionless, but offers no further guidance for selecting between a connection-oriented packet-switched technology and a connectionless packet-switched technology. The Office Action also fails to cite to any portion of *Diachina* related to notifications.

The portions of *Gupta* cited in the Office Action disclose TCP and UDP as network protocols. Col. 1, ll. 21-31. In the "Summary of the Invention" *Gupta* indicates that a user first attempts to retrieve information using HTTP and UDP in order to eliminate the need for TCP's virtual connection setup and teardown, but if the HTTP-UDP interaction fails or if a response is received indicating that the return information is beyond the size limits for a UDP transaction, the process falls back to an HTTP-TCP request to get the desired information. Col. 2, ll. 6-17. Based on the portions cited in the Office Action, the only guidance *Gupta* offers with respect to selecting a connectionless protocol or a connection-oriented protocol is first to try UDP, and if unsuccessful fall back to TCP. Here too, the Office Action fails to cite to any portion of *Gupta* related to notifications.

Because the cited portions of *Diachina* offer no guidance for selecting between a connection-oriented protocol and a connectionless protocol, and because the cited portions of *Gupta* merely indicate that UDP should be tried first, and if unsuccessful fall back to TCP, and because the Office Action fails to cite any portions of *Diachina* and *Gupta* that relate to notifications, Applicants respectfully submit that the Office Action's obviousness assertion is based on impermissible hindsight, using knowledge gleaned only from Applicants' disclosure. From Applicants' perspective, the Office Action simply fails to provide sufficient support for the asserted teachings. Furthermore, because the Office Action fails to cite any portions of *Diachina* and *Gupta* that relate to notifications, Applicants respectfully submit that the Office Action fails to establish a *prima facie* case of obviousness in that the Office Action fails to show that the cited portions of *Diachina* and *Gupta* teach all of the limitations recited in independent claims 1, 7, 8, 9, 10, 16, 17, and 19. Accordingly, Applicants respectfully submit that the rejection of independent claims 1, 7, 8, 9, 10, 16, 17, and 19 under 35 U.S.C. § 103(a) as being unpatentable over *Fortman* in view of *Gupta*, *Diachina* and/or *Blount*² is improper and should be withdrawn.

Independent Claims 24, 26, 27, and 34

Independent claims 24 and 26 generally correspond to the embodiments of the invention illustrated in Figures 6 & 7. Independent claims 27 and 34 generally correspond to the embodiments of the invention illustrated in Figures 8 & 9. As discussed during the Interview, among other things and in combination with the other recited limitations for the respective independent claims, the prior art of record fails to teach or suggest sending one notification for multiple events, and fails to teach or suggest a client system notifying each application that requested notification of the occurrence of an event based on one notification received from a server system. Accordingly, the prior art of record fails to teach or suggest all of the claim limitations recited in independent claims 24, 26, 27, and 34, and therefore the rejection of independent claims 24, 26, 27, and 34 under 35 U.S.C. § 103(a) as being unpatentable over *Fortman* in view of *Gupta* and *Diachina* has been overcome and should be withdrawn. The Examiner seemed to concur with this analysis and noted in the Interview Summary that the

²The Office Action cites *Blount* only to assert that *Blount* discloses a back-off algorithm, and not in with respect to selecting between a connection-oriented and connectionless protocol. See, e.g., Office Action, p. 22 (rejection of claim 10).

proposed amendments to independent claims 24, 26, 27, and 34 appear to overcome the cited references.

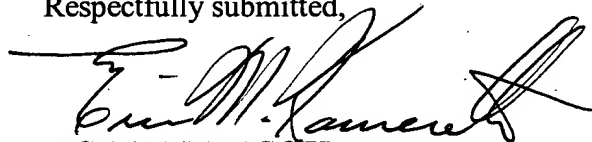
Conclusion

Based on at least the foregoing reasons, therefore, Applicants respectfully submit that the cited art fails to anticipate or make obvious Applicants' invention, as claimed, for example, in independent claims 1, 7, 8, 9, 10, 16, 17, 18, 24, 26, 27, and 34. Applicants note for the record that the other rejections and assertions of record with respect to the independent and dependent claims are now moot, and therefore need not be addressed individually. Accordingly, Applicants do not acquiesce to any assertions in the Office Action that are not specifically addressed above, and hereby reserve the right to challenge those assertions in the future, including any official notice taken by the Examiner, if necessary or desired.

In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 7th day of February, 2005.

Respectfully submitted,



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